

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KIMBERLY ROQUEMORE, Individually
and as the Administratrix of the Estate of
Maalik Roquemore, Deceased,

Plaintiff,

vs.

CUYAHOGA METROPOLITAN
HOUSING AUTHORITY, et al.,

Defendants.

CASE NO. 1:24-CV-01434

JUDGE DONALD C. NUGENT

**REPLY BRIEF REGARDING MOTION
TO STAY (DOC. #39)**

On February 27, 2025, Defendants filed a Motion to Stay Discovery Pending Ruling on Motion for Partial Judgment on the Pleadings. (Doc. #39). On the same day, this Court granted Defendants' Motion to Stay. (Doc. #40). On March 4, 2025, the Court held a status conference call with the parties and confirmed that all discovery, including depositions, were stayed pending the Court's ruling on the Motion for Partial Judgment on the Pleadings. (Doc. #41). On March 4, 2025, Defendants timely filed their Reply Brief in Support of their Motion for Partial Judgment on the Pleadings. (Doc. # 42). Later that evening, Plaintiff inappropriately filed a "Brief in Opposition Disputing a Materially Inaccurate Statement in the Governments [sic] (CMHA) Motion to Stay." (Doc. #44).

As an initial matter, Plaintiff's Brief in Opposition should be disregarded as moot and a legal nullity given that the Court had already granted Defendants' Motion to Stay several days

prior to Plaintiff's specious filing. Additionally, Defendants' Motion to Stay did not include any inaccurate statements, material or otherwise. Indeed, Plaintiff's Brief in Opposition conceded that Mr. Patterson was not present at the scene of the incident on September 5, 2022, which is consistent with Defendants' statement that Mr. Patterson was not involved with the incident that occurred on September 5, 2022.

Further, Plaintiff's legally baseless Brief in Opposition to the already granted Motion to Stay, filed hours after Defendants filed their Reply Brief in Support of their Motion for Partial Judgment on the Pleadings, is an improper and flawed attempt by Plaintiff to bolster her Brief in Opposition to the pending Motion for Partial Judgment on the Pleadings much like a sur-reply brief filed without leave of court. *Pontefract v. United States*, 2023 WL 5352199 (N.D. Ohio Aug. 21, 2023) (striking sur-reply that was filed without leave of court and citing, *Eberhard v. Chicago Title Ins. Co.*, No. 1:11 CV 834, 2014 WL 12756822, at *2 (N.D. Ohio Jan. 8, 2014) (striking sur-reply filed without leave because "neither local rules, similar to 7.1, nor the Federal Rules of Civil Procedure authorize a non-moving party to file a sur-reply, and... to file a sur-reply the party must obtain leave of the court")).

Even if this Court were to consider the arguments set forth in Plaintiff's Brief in Opposition, which it should not, those arguments only further highlight the deficiencies in Plaintiff's analysis of an individual liability claim pursuant to Section 1983. Indeed, the arguments set forth in Plaintiff's Brief in Opposition are irrelevant to the applicable standard and case authority regarding individual liability – which requires that an individual be personally involved in an unconstitutional act – as set forth in greater detail in Defendants' Motion for Partial Judgment on the Pleadings and Reply Brief in Support of the same. (Doc. #32, PageID #293-98); (Doc. #42, PageID #346-49).

For these reasons, Plaintiff's Brief in Opposition should be disregarded in its entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically on March 11, 2025. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system.

Parties may access this filing through the Court's system.

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